

EXHIBIT A

Summons and Complaint
filed in the Fifth Judicial
District Court,
Case No. CV20-0238

EXHIBIT A

ISSUED

SUMM
CRAIG A. MUELLER, ESQ.
Nevada Bar No: 4703
MUELLER & ASSOCIATES, INC.
723 S. 7th Street
Las Vegas, NV 89101
Telephone: (702) 382-1200
Facsimile: (702) 637-4817
Email: electronic-service@craigmuellerlaw.com
Attorney for Plaintiffs

DISTRICT COURT
NYE COUNTY, NEVADA

DENYCE ELDRIDGE, an individual; AQUA
A SALON; a domestic Entity;

Case No.: CV10-0238

Dept No.: 2

Plaintiffs,

vs.

STEVE SISOLAK, in his official capacity of
Governor of the State of Nevada; and DOES I
through X; and ROE CORPORATIONS I
through X, inclusive

Defendants.

SUMMONS-CIVIL

GOVERNOR STEVE SISOLAK

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.**

READ THE INFORMATION BELOW.

TO THE DEFENDANT(S): A Complaint has been filed by the Plaintiff against you for
the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served
on you, exclusive of the day of service, you must do the following:

(a) File with the Clerk of this Court, whose address is shown below, a formal written
response to the Complaint in accordance with the rules of the Court, with the appropriate
filing fee.

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723 S. 7th Street, Las Vegas, Nevada 89101
Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 (b) Serve a copy of your response upon the attorney whose name and address is shown
2 below.


3 2. Unless you respond, your default will be entered upon application of the
4 Defendants/Counterclaimants and failure to so respond will result in a judgment of default against
5 you for the relief demanded in the Counterclaim, which could result in the taking of money or
6 property or other relief requested in the Counterclaim.

7 3. If you intend to seek the advice of an attorney in this matter, you should do so
8 promptly so that your response may be filed on time.

9 4. The State of Nevada, its political subdivisions, agencies, officers, employees,
10 board members, commission members and legislators each have 45 days after service of this
11 Summons within which to file an Answer or other responsive pleading.
12 Submitted by:

13 **MUELLER & ASSOCIATES, INC.**

CLERK OF COURT

14 
15 **CRAIG A. MUELLER, ESQ.**
16 Nevada Bar No. 4703
17 723 S. 7th Street
18 Las Vegas, NV 89101
19 *Attorney of Plaintiffs*

Sarah Westfall 05/05/2020
DEPUTY CLERK
Nye County Courthouse
1520 E. Basin Ave.
Pahrump, NV 89060

MUELLER & ASSOCIATES, INC.
723 S. 7th Street, Las Vegas, Nevada 89101
Telephone: (702) 382-1200 Facsimile: (702) 637-4817

COMP
CRAIG A. MUELLER, ESQ.
 Nevada Bar No. 4703
MUELLER & ASSOCIATES, INC.
 723 S. 7th Street
 Las Vegas, NV 89101
 Telephone: (702) 382-1200
 Facsimile: (702) 637-4817
 Email: electronicservice@craigmuellerlaw.com
Attorney for Plaintiffs

FILED
 FIFTH JUDICIAL DISTRICT

MAY - 5-2020

Nye County Clerk

[Signature] Deputy

DISTRICT COURT
NYE COUNTY, NEVADA

DENYCE ELDRIDGE, an individual; AQUA
 A SALON; a domestic Entity;

Case No.: CN20-0138

Dept No.: 2

Plaintiffs,

vs.

**COMPLAINT FOR DECLARATORY
 RELIEF AND INJUNCTIVE RELIEF**

STEVE SISOLAK, in his official capacity of
 Governor of the State of Nevada; and DOES I
 through X; and ROE CORPORATIONS I
 through X, inclusive

DEMAND FOR JURY

Defendants.

NOW COME Plaintiffs, DENYCE ELDRIDGE and AQUA A SALON, by and through
 their attorney of record, CRAIG A. MUELLER, ESQ., of the law firm of MUELLER &
 ASSOCIATES, INC. who hereby bring this action for Declaratory and Injunctive Relief, and
 monetary damages, against Defendant, STEVE SISOLAK, in his official capacity as Governor of
 State of Nevada.

INTRODUCTION

1. Plaintiff DENYCE ELDRIDGE, an individual; a resident of the County of Nye,
 State of Nevada, and Aqua Salon a Domestic Entity; doing business in the County of Nye, State
 of Nevada, are affected by Governor Sisolak's actions, and their fundamental right to associate
 with customers, business associates, co-workers, friends and family and utilize their privately

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Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 owned property have been unjustifiably infringed by Governor Sisolak's emergency
2 directives/orders (identified further below).

3 2. An individual's choice to maintain human relationships, whether with friends,
4 family, business associates, customers and co-workers and the right to associate with such
5 individuals under the First Amendment must be secured against undue intrusion by the State
6 because safeguarding this kind of individual freedom is central to our constitutional scheme.
7 *Roberts v. United States Jaycees*, 468 U.S. 609(1984).
8

9 3. The Fifth Amendment's guarantee that private property shall not be taken for a
10 public use without just compensation was designed to bar Government from forcing some
11 individuals to bear public burdens which, in all fairness and justice, should be borne by the public
12 as a whole." *Armstrong v. United States*, 364 U.S. 40, 49 (1960).
13

14 PARTIES

15 4. Plaintiff DENYCE ELDRIDGE an individual is a resident of the County of Nye,
16 State of Nevada, and the owner/operator of Plaintiff, AQUA A SALON, a beauty salon;

17 5. Plaintiff AQUA A SALON, is a beauty salon, and a Domestic Entity, authorized to
18 do business and doing business at 1520 East Highway 372 Suite # B, Pahrump, Nevada, 89048,
19 County of Nye, State of Nevada;
20

21 6. As a direct and proximate result of the Emergency Orders/Directives of Governor
22 Sisolak, Plaintiff AQUA A SALON has been closed for business since March 13, 2020.

23 7. Prior to the shutdown, Plaintiff AQUA A SALON was receiving gross receipts of
24 approximately \$40,000.00 (Forty Thousand Dollars) per month; Plaintiff AQUA A SALON
25 employs Plaintiff DENYCE ELDRIDGE as well as three cosmetologists who are independent
26 contractors. Neither Plaintiff DENYCE ELDRIDGE nor the three cosmetologists qualify for
27 unemployment benefits or the payroll loan program implemented by the Federal Government.
28

MUELLER & ASSOCIATES, INC.
723 S. 7th Street, Las Vegas, Nevada 89101
Telephone: (702) 382-1200 Facsimile: (702) 637-4817

MUELLER & ASSOCIATES, INC.
 723 S. 7th Street, Las Vegas, Nevada 89101
 Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 8. Defendant, Governor STEVE SISOLAK, named in his official capacity, is the
 2 Governor of the State of Nevada is responsible for enforcing the laws of the State of Nevada, and is
 3 charged with implementing policy through executive orders; including the Executive Orders as
 4 outline below.

5 9. The true names of DOES, 1 through X, their citizenship and capacities, whether
 6 individual, corporate, associate, partnership or otherwise, are unknown to Plaintiffs who
 7 therefore alleges that each of the Defendants, designated as DOES I through X, are, or may be
 8 legally responsible for the events referred to in this action and caused damages to
 9 Plaintiffs, as herein alleged and Plaintiffs will ask leave of this Court to amend the Complaint
 10 to insert the true names and capacities of such Defendant, when the same have been ascertained
 11 and to join them in this action, civil damages.

12 10. The true names of ROES, 1 through X, their citizenship and capacities, whether
 13 individual, corporate, associate, partnership or otherwise, are unknown to Plaintiffs who
 14 therefore alleges that each of the Defendants, designated as ROES I through X, are, or may be
 15 legally responsible for the events referred to in this action and caused damages to
 16 Plaintiffs, as herein alleged and Plaintiffs will ask leave of this Court to amend the Complaint
 17 to insert the true names and capacities of such Defendant, when the same have been ascertained
 18 and to join them in this action, civil damages.

19 11. At all times herein mentioned, Defendants, their agents, partners servants,
 20 employees, contractors and each of them were acting within the course and scope of their agency,
 21 employment, or contract.

22 12. NRS 414.0345 defines "Emergency" as follows:

23 "Emergency means an occurrence or threatened occurrence for which, in the determination
 24 of the Governor, the assistance of state agencies is needed to supplement the efforts and capabilities
 25
 26
 27
 28

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Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 of political subdivisions to save lives, protect property and protect the health and safety of persons
2 in this state, or to avert the threat of damage to property or injury to or the death of persons in this
3 state.”

4 13. As of May 5, 2020, there have been no known Covid19 deaths in Nye County,
5 Nevada.

6 14. As of May 5, 2020, there have been no shortage of hospital beds, medical personnel
7 personal protection equipment, ventilators, respirators, or Covid19 test kits in Nye County, Nevada
8 requiring the assistance of state agencies.

9 15. As of May 5, 2020, there has been no occurrence in Nye County, Nevada for which
10 “the assistance of state agencies is needed to supplement the efforts and capabilities of political
11 subdivisions to save lives, protect property and protect the health and safety of persons in this state,
12 or to avert the threat of damage to property or injury to or the death of persons in this state.”

13 16. According to Governor Sisolak and Nevada’s Health Response Center,
14 nonessential services include:

- 15 • Entertainment & hospitality, including but not limited to strip clubs and brothels, casinos,
16 concert venues, arenas, auditoriums, stadiums, large conference rooms, meeting halls, and
17 cafeterias
- 18 • Recreation and athletic facilities, including but not limited to community and recreation
19 centers, gyms, health clubs, fitness centers, yoga, barre and spin facilities
- 20 • Beauty and personal care services and facilities, including but not limited to barber
21 shops, beauty, tanning, waxing hair salons, and nail salons and spas
- 22 • Retail facilities, including shopping malls except for pharmacy or other health care
23 facilities within retail operations. Retailers are encouraged to continue online operations
24 with pickup and delivery.

25 17. Article I Section 18 of the Constitution of the State of Nevada provides:

26 Sec: 18. **Unreasonable seizure and search; issuance of warrants.** The right of the
27 people to be secure in their persons, houses, papers and effects against unreasonable seizures and
28 searches shall not be violated; and no warrant shall issue but on probable cause, supported by Oath
or Affirmation, particularly describing the place or places to be searched, and the person or
persons, and thing or things to be seized.

18. Article I Section 20 of the Constitution of the State of Nevada provides:

Sec: 20. **Rights retained by people.** This enumeration of rights shall not be construed to impair or deny others retained by the people.

19. Article I Section 22 of the Constitution of the State of Nevada provides in pertinent part as follows:

Sec: 22. **Eminent domain proceedings: Restrictions and requirements.** Notwithstanding any other provision of this Constitution to the contrary:

1. Public use shall not include the direct or indirect transfer of any interest in property taken in an eminent domain proceeding from one private party to another private party. In all eminent domain actions, the government shall have the burden to prove public use.

2. In all eminent domain actions, prior to the government's occupancy, a property owner shall be given copies of all appraisals by the government and shall be entitled, at the property owner's election, to a separate and distinct determination by a district court jury, as to whether the taking is actually for a public use.

3. If a public use is determined, the taken or damaged property shall be valued at its highest and best use without considering any future dedication requirements imposed by the government. If private property is taken for any proprietary governmental purpose, then the property shall be valued at the use to which the government intends to put the property, if such use results in a higher value for the land taken.

4. In all eminent domain actions, just compensation shall be defined as that sum of money, necessary to place the property owner back in the same position, monetarily, without any governmental offsets, as if the property had never been taken. Just compensation shall include, but is not limited to, compounded interest and all reasonable costs and expenses actually incurred.

5. In all eminent domain actions where fair market value is applied, it shall be defined as the highest price the property would bring on the open market.

6. Property taken in eminent domain shall automatically revert back to the original property owner upon repayment of the original purchase price, if the property is not used within five years for the original purpose stated by the government. The five years shall begin running from the date of the entry of the final order of condemnation.

7. A property owner shall not be liable to the government for attorney fees or costs in any eminent domain action.

8. For all provisions contained in this section, government shall be defined as the State of Nevada, its political subdivisions, agencies, any public or private agent acting on their behalf, and any public or private entity that has the power of eminent domain.

20. The exercise of eminent domain is not limited to real property, and can include personal property, even intangible property such as contract rights, patents, trade secrets, and copyrights.

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Telephone: (702) 382-1200 Facsimile: (702) 637-4817

21. According to Governor Sisolak and Nevada's Health Response Center, nonessential services include:

- Entertainment & hospitality, including but not limited to strip clubs and brothels, casinos, concert venues, arenas, auditoriums, stadiums, large conference rooms, meeting halls, and cafeterias
- Recreation and athletic facilities, including but not limited to community and recreation centers, gyms, health clubs, fitness centers, yoga, barre and spin facilities
- Beauty and personal care services and facilities, including but not limited to barber shops, beauty, tanning, waxing hair salons, and nail salons and spas
- Retail facilities, including shopping malls except for pharmacy or other health care facilities within retail operations. Retailers are encouraged to continue online operations with pickup and delivery.

JURISDICTION AND VENUE

22. This Court has jurisdiction to hear this case because Plaintiff DENYCE ALDRIDGE is a resident of the County of Nye, State of Nevada, and Plaintiff AQUA A SALON is authorized to do business and has been doing business in the County of Nye, State of Nevada, for the past three years.

FACTS

23. The World Health Organization ("WHO") and the Center for Disease Control and Prevention ("CDC") identified the novel coronavirus ("COVID-19") as a "public health emergency of international concern."

24. Likewise, the U.S. Department of Health and Human Services ("HHS") declared that COVID-19 has created a public health emergency.

25. On April 4, President Donald J. Trump approved the request declaring a major disaster in the State of Nevada and ordered Federal assistance to supplement State, local, and tribal recovery. 1 ordered Federal assistance to supplement State, local, and tribal recovery efforts in the areas affected by COVID-19. For the first time in our Nation's history, every State and territory has a presidential disaster declaration at the same time.

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1 26. On March 12, 2020 there was a Declaration of Emergency by Governor Sisolak
2 initiated a coordinated state response effort. These efforts combined a series of directives enforcing
3 social distancing with organizational changes streamlining Nevada's efforts to protect the health
4 and safety of Nevada.

5 27. On March 14, 2020 Governor Sisolak established the Medical Advisory Team
6 (MAT) to advise him with expert medical recommendations on policy issues related to Nevada's
7 response.
8

9 28. On March 15, 2020 Governor Sisolak announced the closure of K-12 schools across
10 Nevada while maintaining the meal service for students who rely on free and reduced food and
11 meal programs (Declaration of Emergency 001).
12

13 29. On March 15, 2020 Governor Sisolak issued an emergency regulation to expand
14 the authorization of paid administrative leave for state employees in a state of emergency.

15 30. On March 15, 2020 Governor Sisolak directed the executive branch agency
16 leadership to close state offices to the public – as soon as possible – and transition as much of the
17 work as possible to online and over-the-phone services.

18 31. On March 16, 2020 the Nevada Department of Agriculture (NDA) announced the
19 implementation of the first of a two-tier strategy to address students' need for the National School
20 Lunch Program School Breakfast Program by using drive-thru services where possible.
21

22 32. On March 17, 2020 Governor Sisolak announced the Stay Home for Nevada risk
23 mitigation initiatives. March 18- Governor Sisolak signed Emergency Directive 002, which
24 provided for the closure of casinos and gaming establishments within Nevada.

25 33. On March 18, 2020 Governor Sisolak waived the unemployment insurance work
26 search requirement and the unemployment insurance 7-day wait period.
27
28

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1 34. On March 20, 2020 Governor Sisolak announced a Stay at Home directive for
2 Nevadans and closure of non-essential business to protect Nevadans and encourage them to stay
3 home and help flatten the curve (Emergency Directive 003). NEVADA UNITED Roadmap to
4 Recovery NEVADA UNITED: Roadmap to Recovery- federally supported, state managed, locally
5 executed.

6
7 35. March 20, 2020 Governor Sisolak and the Nevada Department of Motor Vehicles
8 issued an automatic 90-day extension for expiring driver's licenses, vehicle registrations, and other
9 DMV documents (Emergency Directive 004) March 20- Governor Sisolak issued a directive
10 extending school closures and providing for distance learning (Emergency Directive 005).

11 36. On March 22, 2020 Governor Sisolak established the COVID-19 Response, Relief,
12 and Recovery Private Sector Task Force in order to facilitate a public/private partnership.

13 37. On March 22, 2020 Governor Sisolak signed Emergency Directive 006, which
14 waived the public meeting location requirement for public meetings in Nevada.

15 38. On March 24, 2020 Governor Sisolak signed Emergency Directive 007, which
16 limited gatherings to fewer than 10 people and closed state recreation areas.

17 39. March 29, 2020 Governor Sisolak signed an emergency directive placing a
18 moratorium on evictions in the State of Nevada (Emergency Directive 008).

19 40. March 31, 2020 Governor Sisolak issued a travel advisory for the State of Nevada,
20 urging visitors or returning Nevadans to self-quarantine and monitor their health for 14 days after
21 arriving or returning to Nevada.

22 41. April 1, 2020 Governor Sisolak extended the closure of non-essential businesses,
23 gaming properties, and schools (Emergency Directive 010).

24 42. On April 1, 2020 Governor Sisolak signed the Battle Born Medical Corps
25 emergency directive that waived certain licensing requirements to allow Nevada to quickly bring
26
27
28

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1 additional health care workers into our hospitals, and allow certain doctors, nurses, EMTs, and
2 even medical students to go to work right away (Emergency Directive 011).

3 43. On April 1, 2020 Governor Sisolak signed Emergency Directive 12, which
4 activated the Nevada National Guard in support of Nevada's response to the pandemic.

5 44. On April 2, 2020 Governor Sisolak issued revised Emergency Directive 009, which
6 extended deadlines related to legal proceedings, permits, and licenses.

7 45. On April 3, 2020 Governor Sisolak and the Medical Advisory Team issued
8 statewide guidance on Improvised Face Coverings for the public.

9 46. On April 8, 2020 Governor Sisolak announced Emergency Directive 013, which
10 expanded earlier social distancing emergency directives by closing retail showrooms and
11 prohibiting certain leisure activities.

12 47. On April 10, 2020 The State activated the Nevada Disaster Recovery Framework.

13 48. On April 14, 2020 Governor Sisolak signed Emergency Directive 014, which
14 extended the school closure through April 30 and addressed graduation requirements and distance
15 learning opportunities for Nevada students during the declared emergency.

16 49. April 21, 2020 Governor Sisolak announced the criteria and framework for
17 Nevada's state-specific reopening plan.

18 50. On April 27, 202 Governor Sisolak announced that Nevada would be joining the
19 Western States Pact. NEVADA UNITED Roadmap to Recovery NEVADA UNITED: Roadmap
20 to Recovery – federally supported, state managed, locally executed.

21 51. On April 29, 2020 Governor Sisolak signed Directive 015, confirming his previous
22 announcement that school building closures and emergency programs of distance education would
23 continue through the end of the 2019-2020 academic year.

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1 52. On April 29, 2020 Governor Sisolak issued Directive 016, extending earlier the
2 Stay at Home measure.

3 53. The above executive orders/directives were issued to the Plaintiffs, and to all
4 citizens of the State of Nevada, under threat of fines and criminal penalties and the above executive
5 orders/directives substantially denied the Plaintiffs their use of their Tangible Property and its
6 Physical Locations.

7 54. By denying Plaintiffs access to their Physical Locations, they are unable to
8 generate any additional sales or other forms of revenue, to collect the bulk of their outstanding
9 receivables or pay many of their payables.

10 55. In fact, there was no "Emergency" as defined in NRS 414.0345 which would
11 warrant the imposition of Governor Sisolak's Emergency Directives/Orders 0001 through 016.

12 56. As a result, the working capital of the Plaintiffs was severely constrained, and they
13 were forced to immediately reduce their expenses in order to survive until the above executive
14 orders/directives were lifted.

15 57. Plaintiff AQUA A SALON was forced to "lay off" three (3) cosmetologists who
16 operated as independent contractors and who are therefore not eligible for unemployment
17 benefits. The layoffs irreparably damaged Plaintiffs' sterling reputation with its workforce.

18 58. With her forced closures, Governor Sisolak caused considerable damage to
19 Plaintiffs' reputations, and to their relationships with their customers, vendors and employees.

20 59. Neither Governor Sisolak nor the State of Nevada have offered appropriate
21 compensation to. in exchange for the total regulatory seizure of property.

22 60. During the pendency of the aforesaid emergency orders/directives, Plaintiffs have
23 no use of their Tangible Property and their Physical Locations, the value of. Which substantially
24 diminished.

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723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 61. The aforesaid emergency orders/directives make it commercially impracticable
2 for Plaintiffs to use the property belonging to. for any economically beneficial purpose and
3 inflict very nearly the same effect for constitutional purposes as appropriating or destroying [the
4 property as a whole]. *Tenn. Scrap Recyclers Ass'n v. Bredesen*, 556 F.3d 442, 455, (2009).

5 62. Governor Sisolak's emergency orders/directives render Plaintiff's property and business,
6 unusable, including both the real property in which the business is physically located ("Physical
7 Location") and the tangible property housed in such locations – such as equipment, machinery,
8 inventory, tools, business records, and other forms of tangible equipment used in operating each
9 business ("Tangible Property") (both forms of property collectively referred to as "Property").
10

11 63. Despite issuing the aforesaid emergency orders/directives, Governor Sisolak did
12 not provide compensation for those who suffered substantial – and perhaps total – diminution of
13 value in their property interests as a result. Defendants and each of them, deprived. Plaintiffs of
14 all economically beneficial use of their Property.
15

16 64. The aforesaid emergency orders/directives constitute a regulatory taking
17 implemented for a recognized public purpose, and therefore the failure to pay just compensation
18 contravenes the Takings Clause of the Fifth and Fourteenth Amendments. *Coalition for Gov't*
19 *Procurement v. Fed. Prison Indus.*, 365 F.3d 435, 478, (2004) see also *Horne v. Dep't of Agric.*,
20 576 U.S. 350, 135 S. Ct. 2419, 2426 (2015) ("Nothing in the text or history of the Takings
21 Clause, or our precedents, suggests that the rule is any different when it comes to appropriation
22 of personal property. The Government has a categorical duty to pay just compensation when it
23 takes your car, just as when it takes your home.").

MUELLER & ASSOCIATES, INC.

723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

INDIVIDUAL RESTRICTIONS UNDER THE EMERGENCY DIRECTIVE/ORDER OF
GOVERNOR SISOLAK

65. Under the aforesaid emergency orders/directives, individuals are restricted from leaving their residences for any reason not expressly authorized under the orders.

66. On April 1, 2020 Governor Sisolak extended the closure of non-essential businesses, including beauty salons, gaming properties, and schools (Emergency Directive 010).

67. April 8, 2020, Governor Sisolak announced Emergency Directive 013, which expanded earlier social distancing emergency directives by closing retail showrooms and prohibiting certain leisure activities.

68. Under the Emergency directives/orders issued by Governor Sisolak, the Plaintiffs have been prevented from exercising some of the most fundamental rights enjoyed by citizens of the United States and the State of Nevada.

69. The Plaintiffs are under a stay-at-home order until further order of Governor Sisolak. The order includes non-essential businesses. When he issued the order, Governor Sisolak told reporters he wasn't "Playing around."

70. "There should be no confusion. And there's not in my mind. This is not the time to try to find loopholes," Governor Sisolak said. "If your business is not essential to providing sustenance and for the everyday safety, health and wellbeing of Nevadans, you must shut down so that we can give health care workers and our fellow citizens the best chance at fighting this virus that we can."

71. Part of that emergency order/directive gave local governments the ability to enforce the closures in the best way they see fit, including criminal penalties if necessary.

MUELLER & ASSOCIATES, INC.
 723 S. 7th Street, Las Vegas, Nevada 89101
 Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 72. Thereafter, Nye County Nevada officials issued a press release saying that they
 2 fully intended to comply with the shutdown order.

3 “The governor has made it clear that you have a duty imposed by law under his
 4 emergency declaration,” the press release stated. “Nye County Deputies will be taking
 5 enforcement action in accordance with his emergency declaration made on March 20th. This
 6 enforcement action is ongoing until further notice.”

7
 8 73. Under threat of fines and criminal penalties the Plaintiffs are prohibited from
 9 operating a business; earning a living; or utilizing their privately owned property, for the
 10 duration of the **Executive Order of Governor Sisolak**.

11 74. Governor Sisolak claimed his authority to enact the aforesaid Emergency
 12 Directives Orders by citing a set of broad emergency statutes which he said authorized his actions
 13 to stem the spread of COVID-19 across the State of Nevada Michigan.

14 75. Governor Sisolak’s Emergency Directives/Orders halted all economic activity and
 15 violates fundamental rights protected by the Constitution of the United States and the
 16 Constitution of the State of Nevada.

17 76. As a direct and proximate result of the conduct of the Defendant, Governor Steve Sisolak,
 18 Plaintiff incurred damages in excess of \$15,000.00. In this regard, Plaintiff prays leave of the Court to
 19 insert all said damages herein when the same have been fully ascertained or proven at the time of
 20 trial herein.

21
 22 77. It has been necessary for Plaintiffs to retain the services of the law firm of
 23 **MUELLER & ASSOCIATES, INC.** to represent them in the above-titled matter and Plaintiffs
 24 are entitled to reasonable attorney’s fees and costs incurred herein.
 25
 26
 27
 28

COUNT I**VIOLATION OF THE TAKINGS CLAUSE- 42 U.S.C. §1983****EMERGENCY DIRECTIVES/ORDERS 0001 THROUGH ARE AN UNCONSTITUTIONAL REGULATORY TAKING OF PROPERTY WITHOUT JUST COMPENSATION IN VIOLATION OF THE FIFTH AMENDMENT'S TAKINGS CLAUSE AS INCORPORATED UNDER THE FOURTEENTH AMENDMENT**

78. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein. Governor Sisolak has seized without compensation the property of businesses and individuals across the State, by forcing the closures of business under Emergency Directive/Orders 0001 through 016.

79. These uncompensated seizures violate the Takings Clause of the Fifth Amendment, made applicable to States through the Fourteenth Amendment, and also violate well-established notions of Substantive and Procedural Due Process. Plaintiffs respectfully request that this Court (i) declare the Governor Sisolak's actions unconstitutional, and (ii) order the payment of just compensation.

80. Governor Sisolak issued a series of Emergency Directives/Orders for the public purpose of protecting Nevada's public health, safety and welfare.

81. Governor Sisolak has placed the cost of these Orders, issued for the benefit of the public, squarely upon the shoulders of private individuals and has failed to justly compensate affected parties for these takings undertaken for their benefit to the public.

82. Without extending constitutionally required just compensation to Plaintiffs, these Emergency Directives/Orders jeopardize the sustainability of Plaintiffs' business and the rights of the Plaintiffs' rights with respect to property ownership.

MUELLER & ASSOCIATES, INC.
723 S. 7th Street, Las Vegas, Nevada 89101
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1 83. The Takings Clause of the Fifth Amendment provides that private property shall
2 not "be taken for public use, without just compensation." U.S. Const. Amend. V.

3 84. The Takings Clause "is designed not to limit the governmental interference with
4 property rights *per se*, but rather to secure *compensation* in the event of otherwise proper
5 interference amounting to a taking." *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 536–37 (2005)
6 (quoting *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482
7 U.S. 304, 315 (1987) (emphasis in original)).

8 85. The Takings Clause bars government actors "from forcing some people alone to
9 bear public burdens which, in all fairness and justice, should be borne by the public as a whole."
10 *Armstrong v. United States*, 364 U.S. 40, 49 (1960).

11 86. Governor Sisolak issued Emergency Directives/Orders 001 through 016 as a
12 means of slowing the spread of the novel coronavirus.

13 87. Governor Sisolak acted under color of state law, and Emergency
14 Directives/Orders 001 through 016 were issued to serve a well-recognized public purpose by a
15 duly elected state official and his designee.

16 88. Emergency Directives/Orders 001 through 016 Plaintiffs' use of their Tangible
17 Property and Physical Location to such an extent that, at least temporarily, the Orders entirely
18 diminished the economically beneficial use of those Properties.

19 89. Under Emergency Directives/Orders 001 through 016 *all* economically
20 beneficial and profitable uses of Plaintiffs' Tangible Property and Physical Location were
21 extinguished.

22 90. Emergency Directives/Orders 001 through 016 require Plaintiffs' Physical
23 Location and business, to remain idle.
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1 91. The Supreme Court "recognized that government regulation of private property
 2 may, in some instances, be so onerous that its effect is tantamount to a direct appropriation or
 3 ouster- and that such 'regulatory takings' may be compensable under the Fifth Amendment."
 4 *Lingle*, 544 U.S. at 537.

5 92. "The general rule at least is that while property may be regulated to a certain
 6 extent, if regulation goes too far it will be recognized as a taking." *Pennsylvania Coal Co. v.*
 7 *Mahon*, 260 U.S. 393, 415-16 (1922).

8 93. Governor Sisolak's executive Emergency Directives/Orders "go too far" and must
 9 "be recognized as a taking." *See id.*

10 94. Otherwise, without just compensation guaranteed by the Takings Clause,
 11 Plaintiffs will be privately saddled with the cost of paying for government action undertaken for
 12 the common good.

13 95. Plaintiffs have suffered a complete loss of "all economically beneficial uses" of
 14 their Property while Emergency Directives/Orders 001 through 016 remain in effect. This
 15 complete loss constitutes a categorical taking, whether it be Plaintiffs' inability to operate their
 16 businesses at their Physical Location or their inability to exercise any of their other property
 17 rights with regard to their Tangible Property. *See Lucas v. S.C. Coastal Council*, 505 U.S. 1003,
 18 1019 (1992).

19 96. Plaintiffs have been called upon to sacrifice all usage of their Property in the
 20 name of the common good, that is, to leave their properties economically and otherwise idle, and
 21 for this, they have suffered a taking. *Lucas*, 505 U.S. at 1019.

22 97. In the alternative, under the framework articulated by the Supreme Court in *Penn*
 23 *Central*, Emergency Directives/Orders 001 through 016 constitute a taking based upon "the
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1 magnitude of [the Orders'] economic impact and the degree to which [the Orders] interfere[]
 2 with legitimate property interests." *Lingle*, 544 U.S. 528 at 540.

3 98. The Supreme Court's analysis in *Penn Central* sets forth the framework for
 4 assessing whether government action is considered a regulatory taking, identifying "several
 5 factors that have particular significance." *Penn Central Transp. Co. v. New York City*, 438 U.S.
 6 104, 124 (1978).

7 99. The court looks to three factors when analyzing a taking: (1) "[t]he economic
 8 impact of the regulation on the claimant," (2) "the extent to which the regulation has interfered
 9 with distinct investment-backed expectations," and (3) "the character of the governmental action,"
 10 *Penn Cent.*, 438 U.S. at 124, 98 S.Ct. 2646. While these factors provide "important guideposts,"
 11 "[t]he Takings Clause requires careful examination and weighing of all the relevant
 12 circumstances." *Palazzolo*, 533 U.S. at 634, 636, 121 S.Ct. 2448 (O'Connor, J., concurring); see
 13 also *Tahoe-Sierra*, 535 U.S. at 321, 122 S.Ct. 1465 (whether a taking has occurred "depends
 14 upon the particular circumstances of the case"); *Yee v. City of Escondido*, 503 U.S. 519, 523, 112
 15 S.Ct. 1522, 118 L.Ed.2d 153 (1992) (regulatory takings claims "entail[] complex factual
 16 assessments"). *Lost Tree Vill. Corp. v. United States*, 115 Fed. Cl. 219, 228 (2014) (emphasis
 17 added).

18 100. Even if the regulation falls short of eliminating all economically beneficial use, a
 19 taking nonetheless may have occurred, *Palazzolo v. Rhode Island*, 533 U.S. 606 at 617, (2001).

20 101. Since the onset of Governor Sisolak's Emergency directives and Orders, Plaintiffs
 21 have not been permitted to use their Physical Location to operate their business, nor have they
 22 been allowed to use their Tangible Property for any economically profitable use.

23 102. Emergency Directives/Orders 001 through 016, have either entirely drained
 24 Plaintiffs' Property of all economic value during their pendency, or have nearly done so; in either
 25

1 event, the diminution of value and government interference caused by these Emergency
2 Directives/Orders is an unconstitutional taking without just compensation.

3 103. As a direct and proximate result of the conduct of the Defendant, Governor Steve Sisolak,
4 Plaintiffs incurred damages in excess of \$15,000.00. In this regard, Plaintiffs pray leave of the Court
5 to insert all said damages herein when the same have been fully ascertained or proven at the time
6 of trial herein.

7
8 104. It has been necessary for Plaintiffs to retain the services of the law firm of
9 MUELLER & ASSOCIATES, INC. to represent them in the above-titled matter and Plaintiffs
10 are entitled to reasonable attorney's fees and costs incurred herein.

11 COUNT II

12 SUBSTANTIVE DUE PROCESS—42 U.S.C. §1983

13 INTERFERENCE WITH PROPERTY INTERESTS

14 EMERGENCY DIRECTIVES/ORDERS 001 THROUGH 016, DEPRIVE PLAINTIFFS 15 OF LIFE, LIBERTY AND/OR PROPERTY WITHOUT DUE PROCESS OF LAW IN 16 VIOLATION OF THE FOURTEENTH AMENDMENT

17
18 105. Plaintiffs hereby incorporate by reference the preceding paragraphs as though
19 fully set forth herein.

20 106. Never in the modern history of the United States—even in war time—has such an
21 invasive action stripping citizen of fundamental rights been taken by a government order.

22
23 107. The Plaintiffs have a protected liberty interest in their right to live without
24 arbitrary governmental interference in their fundamental property right to use and enjoy land in
25 which they hold a recognized interest. *See MFS, Inc. v. DiLazaro*, 771 F. Supp. 2d 382, 440–41
26 (E.D. Pa. 2011) (citing *DeBlasio v. Zoning Bd. of Adjustment for Twp. of W. Amwell*, 53 F.3d
27 592, 600 (3d Cir.1995)); *see also Horne*, 576 U.S. 350, 135 S. Ct. at 2426.

MUELLER & ASSOCIATES, INC.
723 S. 7th Street, Las Vegas, Nevada 89101
Telephone: (702) 382-1200 Facsimile: (702) 637-4817

MUELLER & ASSOCIATES, INC.

723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 108. The Supreme Court “ha[s] emphasized time and again that “[t]he touchstone of
2 due process is protection of the individual against arbitrary action of government[.]” *City of*
3 *Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) (quoting *Wolff v. McDonnell*, 418 U.S. 539, 558
4 (1974)).

5 109. “[T]he fault [may] lie[] in a denial of fundamental procedural fairness ... or in the
6 exercise of power without any reasonable justification in the service of a legitimate
7 governmental objective[.]” *Id.* at 845-846 (citations omitted).

8 110. “[S]ubstantive due process’ prevents the government from engaging in
9 conduct that ‘shocks the conscience,’ ... or interferes with rights ‘implicit in the concept of
10 ordered liberty[.]’” *United States v. Salerno*, 481 U.S. 739, 746 (1987) (quoting *Rochin*
11 *v. California*, 342 U.S. 165, 172 (1952), and *Palko v. Connecticut*, 302 U.S. 319, 325-326
12 (1937)).

13 111. “[T]he substantive component of the Due Process Clause is violated by executive
14 action only when it can properly be characterized as arbitrary, or conscience shocking, in a
15 constitutional sense.” *Lewis*, 523 U.S. at 847 (quotations omitted).

16 112. Emergency Directives/Orders as set forth above, constitute arbitrary, capricious,
17 irrational and abusive conduct which unlawfully interferes with Plaintiffs’ liberty and property
18 interests protected by the due process clause of the Fourteenth Amendment to the United States
19 Constitution.

20 113. Defendant has acted under color of state law with the intent to unlawfully deprive
21 the Plaintiffs of their liberty and property without substantive due process in violation of the
22 Fourteenth Amendment to the United States Constitution.

23 114. Defendant’s actions, including issuance and enforcement of Emergency
24 Directives/Orders 001 through 016, constitute the official policy, custom, and practices of the
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MUELLER & ASSOCIATES, INC.

723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 State of Nevada, Emergency Directives/Orders 001 through 016, intrude upon the Plaintiffs' use
2 and enjoyment of their property and separately impacts upon the use of its Tangible Property. *See*
3 *DeBlasio*, 53 F.3d at 601. Therefore, Governor Sisolak has violated Plaintiffs' substantive due
4 process rights. *See also Nashville, C. & St. L. Ry. v. Walters*, 294 U.S. 405, 415 (1935).

5 115. Governor Sisolak has arbitrarily, irrationally and capriciously imposed upon
6 Plaintiffs' use and enjoyment of their property by, *inter alia*, requiring both Plaintiffs to
7 shutdown indefinitely and to privately bear the burden for such publicly beneficial decisions,
8 which are aimed at slowing the spread of the novel coronavirus. *See DeBlasio*, 53 F.3d at 601.

9 116. Governor Sisolak implemented Emergency Directives/Orders 001 through 016 for
10 the purpose of preserving public health, safety and welfare. The implementation of these
11 Directives/Orders, however, caused Plaintiffs, harm which they are being asked to privately bear
12 for a manifest public benefit.

13 117. The Governor Sisolak's behavior does not comport with traditional ideas of fair
14 play and decency, *Breithaupt v. Abram*, 352 U.S. 432, 435 (1957), and shocks the conscience' and
15 violates the 'decencies of civilized conduct.'" *See Lewis*, 523 U.S. 833, 846-47 (citations
16 omitted); and violates Plaintiffs' Substantive Due Process Rights.

17 118. Governor Sisolak has acted intentionally, willfully, wantonly, and with
18 callous and reckless disregard for Plaintiffs' constitutional rights.

19 119. As a direct and proximate result of Governor Sisolak's Emergency Orders,
20 Plaintiffs have and will continue to sustain monetary damages including loss in the value of the
21 Tangible Property and Physical Location, lost revenues, profits, expenses, attorneys' fees, and
22 other costs incurred.

23 120. As a direct and proximate result of the conduct of the Defendant, Governor Steve Sisolak,
24 Plaintiffs incurred damages in excess of \$15,000.00. In this regard, Plaintiffs pray leave of the Court
25

1 to insert all said damages herein when the same have been fully ascertained or proven at the time
2 of trial herein.

3 121. It has been necessary for Plaintiffs to retain the services of the law firm of
4 **MUELLER & ASSOCIATES, INC.** to represent them in the above-titled matter and Plaintiffs
5 are entitled to reasonable attorney's fees and costs incurred herein.
6

7 **COUNT III**

8 **SUBSTANTIVE DUE PROCESS- 42 U.S.C. §1983**

9 **INTERFERENCE WITH RIGHT TO ASSOCIATE**

10 **EMERGENCY DIRECTIVES/ORDER 001 THROUGH 016 DEPRIVE PLAINTIFFS OF**
11 **LIFE, LIBERTY AND/OR PROPERTY WITHOUT DUE PROCESS OF LAW IN**
12 **VIOLATION OF THE FOURTEENTH AMENDMENT**

13 122. Plaintiffs hereby incorporate by reference the preceding paragraphs as though
14 fully set forth herein.

15 123. The Plaintiffs have a right to be free from intrusion into the fundamental freedom
16 of their right to associate. *Roberts v. United States Jaycees*, 468 U.S. 609 (1984).
17

18 124. Moreover, the constitutional shelter afforded such relationships reflects the
19 realization that individuals draw much of their emotional enrichment from close ties with others.
20 Protecting these relationships from unwarranted state interference therefore safeguards the
21 ability independently to define one's identity that is central to any concept of liberty, *Id.* at 619.
22

23 125. The Plaintiffs have a protected liberty interest in their right to associate with their
24 business associates, customers, and co-workers without arbitrary governmental interference. *Loving*
25 *v. Virginia*, 388 U.S. 1 (1967).

26 126. The Supreme Court has emphasized time and again that the touchstone of due
27 process is protection of the individual against arbitrary action of government. *City of*
28

MUELLER & ASSOCIATES, INC.
723 S. 7th Street, Las Vegas, Nevada 89101
Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 *Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) (quoting *Wolff v. McDonnell*, 418 U.S. 539, 558
2 (1974)).

3 127. The fault may lie in a denial of fundamental procedural fairness ... or in the
4 exercise of power without any reasonable justification in the service of a legitimate
5 governmental objective. *Id.* at 845-846 (citations omitted).
6

7 128. Choices to enter into and maintain certain intimate human relationships must be
8 secured against undue intrusion by the State because of the role of such relationships in
9 safeguarding the individual freedom that is central to our constitutional scheme. In this respect,
10 freedom of association receives protection as a fundamental element of personal liberty. *Roberts*
11 *v. United States Jaycees*, 468 U.S. 609, 617-618 (1984).
12

13 129. The test for a substantive-due-process right is twofold: whether the right is
14 "objectively, deeply rooted in this Nation's history and tradition" and whether "the crucial
15 guideposts" of "[o]ur Nation's history, legal traditions, and practices" support the right.
16

17 130. Defendant has acted under color of state law with the intent to unlawfully deprive
18 the Plaintiffs of their liberty and property without substantive due process in violation of the
19 Fourteenth Amendment to the United States Constitution.
20

21 131. Defendant's actions, including issuance and enforcement of Emergency
22 Directives/Orders 0001 through 016 constitute the official policy, custom, and practices of the
23 State of Nevada. Therefore, Governor Sisolak has violated the Plaintiffs' substantive due process
24 rights.
25

26 132. Governor Sisolak has acted intentionally, willfully, wantonly, and with
27 callous and reckless disregard for Plaintiffs' constitutional rights.
28

MUELLER & ASSOCIATES, INC.

723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

MUELLER & ASSOCIATES, INC.

723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

133. As a direct and proximate result of Governor Sisolak's Emergency Orders, the Plaintiffs have and will continue to sustain damages including attorneys' fees, and other costs incurred.

134. As a direct and proximate result of the conduct of the Defendant, Governor Steve Sisolak, Plaintiff incurred damages in excess of \$15,000.00. In this regard, Plaintiff prays leave of the Court to insert all said damages herein when the same have been fully ascertained or proven at the time of trial herein.

135. As a direct and proximate result of the callous, reckless, oppressive, willful and outrageous conduct of the Defendant, Governor Steve Sisolak, Plaintiffs are entitled to punitive damages in excess of \$15,000.00. In this regard, Plaintiffs pray leave of the Court to insert all said damages herein when the same have been fully ascertained or proven at the time of trial herein.

136. It has been necessary for Plaintiffs to retain the services of the law firm of MUELLER & ASSOCIATES, INC. to represent them in the above-titled matter and Plaintiffs are entitled to reasonable attorney's fees and costs incurred herein. reasonable attorney's fees and costs incurred herein.

COUNT IV

INTERFERENCE WITH PROPERTY INTERESTS IN VIOLATION OF ARTICLE I OF THE CONSTITUTION OF THE STATE OF NEVADA

137. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

138. The Plaintiffs have a protected liberty interest in their right to live without arbitrary governmental interference in their fundamental property right to use and enjoy land in which they hold a recognized interest. *See MFS, Inc. v. DiLazaro*, 771 F. Supp. 2d 382, 440-41

1 (E.D. Pa. 2011) (*citing DeBlasio v. Zoning Bd. of Adjustment for Twp. of W. Amwell*, 53 F.3d
2 592, 600 (3d Cir.1995)); *see also Horne*, 576 U.S. 350, 135 S. Ct. at 2426.

3 139. The Supreme Court “ha[s] emphasized time and again that “[t]he touchstone of
4 due process is protection of the individual against arbitrary action of government[.]” *City of*
5 *Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) (quoting *Wolff v. McDonnell*, 418 U.S. 539, 558
6 (1974)).

7
8 140. “[T]he fault [may] lie[] in a denial of fundamental procedural fairness ... or in the
9 exercise of power without any reasonable justification in the service of a legitimate governmental
10 objective[.]” *Id.* at 845-846

11 141. NRS 414:0345 defines “Emergency” as follows:

12 “Emergency means an occurrence or threatened occurrence for which, in the determination
13 of the Governor, the assistance of state agencies is needed to supplement the efforts and capabilities
14 of political subdivisions to save lives, protect property and protect the health and safety of persons
15 in this state, or to avert the threat of damage to property or injury to or the death of persons in this
16 state.”

17
18 142. As of May 5, 2020, there have been no known Covid19 deaths in Nye County,
19 Nevada.

20 143. As of May 5, 2020, there have been no shortage of hospital beds, medical personnel
21 personal protection equipment, ventilators, respirators, or Covid19 test kits in Nye County, Nevada
22 requiring the assistance of state agencies.

23
24 144. As of May 5, 2020, there has been no occurrence in Nye County, Nevada for which
25 “the assistance of state agencies is needed to supplement the efforts and capabilities of political
26 subdivisions to save lives, protect property and protect the health and safety of persons in this state,
27 or to avert the threat of damage to property or injury to or the death of persons in this state.”
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723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 145. According to Governor Sisolak and Nevada's Health Response Center,
2 nonessential services include:

- 3 • Entertainment & hospitality, including but not limited to strip clubs and brothels, casinos,
- 4 concert venues, arenas, auditoriums, stadiums, large conference rooms, meeting halls, and
- 5 cafeterias
- 6 • Recreation and athletic facilities, including but not limited to community and recreation
- 7 centers, gyms, health clubs, fitness centers, yoga, barre and spin facilities
- 8 • Beauty and personal care services and facilities, including but not limited to barber
- 9 shops, beauty, tanning, waxing hair salons, and nail salons and spas
- 10 • Retail facilities, including shopping malls except for pharmacy or other health care
- 11 facilities within retail operations. Retailers are encouraged to continue online operations
- 12 with pickup and delivery.

13 146. Article I Section 18 of the Constitution of the State of Nevada provides:

14 Sec: 18. **Unreasonable seizure and search; issuance of warrants.** The right of the
15 people to be secure in their persons, houses, papers and effects against unreasonable seizures and
16 searches shall not be violated; and no warrant shall issue but on probable cause, supported by Oath
17 or Affirmation, particularly describing the place or places to be searched, and the person or
18 persons, and thing or things to be seized.

19 147. Article I Section 20 of the Constitution of the State of Nevada provides:

20 Sec: 20. **Rights retained by people.** This enumeration of rights shall not be construed
21 to impair or deny others retained by the people.

22 148. Article I Section 22 of the Constitution of the State of Nevada provides in pertinent
23 part as follows:

24 Sec: 22. **Eminent domain proceedings: Restrictions and requirements.**
25 Notwithstanding any other provision of this Constitution to the contrary:

26 1. Public use shall not include the direct or indirect transfer of any interest in property taken
27 in an eminent domain proceeding from one private party to another private party. In all eminent
28 domain actions, the government shall have the burden to prove public use.

2. In all eminent domain actions, prior to the government's occupancy, a property owner
shall be given copies of all appraisals by the government and shall be entitled, at the property
owner's election, to a separate and distinct determination by a district court jury, as to whether the
taking is actually for a public use.

3. If a public use is determined, the taken or damaged property shall be valued at its highest
and best use without considering any future dedication requirements imposed by the government.
If private property is taken for any proprietary governmental purpose, then the property shall be

MUELLER & ASSOCIATES, INC.

723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 valued at the use to which the government intends to put the property, if such use results in a higher
2 value for the land taken.

3 4. In all eminent domain actions, just compensation shall be defined as that sum of money,
4 necessary to place the property owner back in the same position, monetarily, without any
5 governmental offsets, as if the property had never been taken. Just compensation shall include, but
6 is not limited to, compounded interest and all reasonable costs and expenses actually incurred.

7 5. In all eminent domain actions where fair market value is applied, it shall be defined as the
8 highest price the property would bring on the open market.

9 6. Property taken in eminent domain shall automatically revert back to the original property
10 owner upon repayment of the original purchase price, if the property is not used within five years
11 for the original purpose stated by the government. The five years shall begin running from the date
12 of the entry of the final order of condemnation.

13 7. A property owner shall not be liable to the government for attorney fees or costs in any
14 eminent domain action.

15 8. For all provisions contained in this section, government shall be defined as the State of
16 Nevada, its political subdivisions, agencies, any public or private agent acting on their behalf, and
17 any public or private entity that has the power of eminent domain.

18 149. The exercise of eminent domain is not limited to real property, and can
19 include personal property, even intangible property such as contract rights, patents, trade secrets,
20 and copyrights.

21 150. In fact, there was no "Emergency" as defined in NRS 414.0345 which would
22 warrant the imposition of Emergency Directives/Orders 0001 through 016.

23 151. "[S]ubstantive due process' prevents the government from engaging in
24 conduct that 'shocks the conscience,' ... or interferes with rights 'implicit in the concept of
25 ordered liberty[.]'" *United States v. Salerno*, 481 U.S. 739, 746 (1987) (quoting *Rochin*
26 *v. California*, 342 U.S. 165, 172 (1952), and *Palko v. Connecticut*, 302 U.S. 319, 325-326
27 (1937)).

28 152. "[T]he substantive component of the Due Process Clause is violated by executive
action only when it can properly be characterized as arbitrary, or conscience shocking, in a
constitutional sense." *Lewis*, 523 U.S. at 847 (quotations omitted).

153. Emergency Directives/Orders as set forth above, constitute arbitrary, capricious,
irrational and abusive conduct which unlawfully interferes with Plaintiffs' liberty and property

MUELLER & ASSOCIATES, INC.

723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 interests protected by the due process clause of the Fourteenth Amendment to the United States
2 Constitution. The Defendants have failed to provide Plaintiffs with any compensation for the
3 taking of their property, let alone just compensation,

4 154. Defendant has acted under color of state law with the intent to unlawfully deprive
5 the Plaintiffs of their liberty and property without substantive due process in violation of the
6 Fourteenth Amendment to the United States Constitution.

7 155. Defendant's actions, including issuance and enforcement of Emergency
8 Directives/Orders 001 through 016, constitute the official policy, custom, and practices of the
9 State of Nevada, Emergency Directives/Orders 001 through 016, intrude upon the Plaintiffs' use
10 and enjoyment of their property and separately impacts upon the use of its Tangible Property;
11

12 156. Governor Sisolak has arbitrarily, irrationally and capriciously imposed upon
13 Plaintiffs' use and enjoyment of their property by, *inter alia*, requiring both Plaintiffs to
14 shutdown indefinitely and to privately bear the burden for such publicly beneficial decisions,
15 which are aimed at slowing the spread of the novel coronavirus.
16

17 157. Governor Sisolak implemented Emergency Directives/Orders 001 through 016 for
18 the purpose of preserving public health, safety and welfare. The implementation of these
19 Directives/Orders, however, caused Plaintiffs, harm which they are being asked to privately bear
20 for a manifest public benefit.
21

22 158. The Governor Sisolak's behavior does not comport with traditional ideas of fair
23 play and decency, *Breithaupt v. Abram*, 352 U.S. 432, 435 (1957), and shocks the conscience' and
24 violates the 'decencies of civilized conduct.'" *See Lewis*, 523 U.S. 833, 846-47 (citations
25 omitted); and violates Plaintiffs' Substantive Due Process Rights.

26 159. As a direct and proximate result of Governor Sisolak's Emergency Orders,
27 Plaintiffs have and will continue to sustain monetary damages including loss in the value of the
28

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723 S. 7th Street, Las Vegas, Nevada 89101

Telephone: (702) 382-1200 Facsimile: (702) 637-4817

1 Tangible Property and Physical Location, lost revenues, profits, expenses, attorneys' fees, and
2 other costs incurred.

3 160. As a direct and proximate result of the conduct of the Defendant, Governor Steve Sisolak,
4 Plaintiffs incurred damages in excess of \$15,000.00. In this regard, Plaintiffs pray leave of the Court
5 to insert all said damages herein when the same have been fully ascertained or proven at the time
6 of trial herein.

7
8 161. Governor Sisolak has acted intentionally, willfully, wantonly, and with callous
9 and reckless disregard for Plaintiffs' constitutional rights. As such, Plaintiffs are entitled to
10 exemplary damages, in excess of \$15,000.00.

11 162. It has been necessary for Plaintiffs to retain the services of the law firm of
12 MUELLER & ASSOCIATES, INC. to represent them in the above-titled matter and Plaintiffs
13 are entitled to reasonable attorney's fees and costs incurred herein.

14 REQUEST FOR RELIEF

15
16 WHEREFORE, Plaintiffs demand judgment in their favor, against Defendant and seek
17 relief for:

18 a. Issuing a Temporary Restraining Order Enjoining Defendant from enforcing
19 Emergency Directives/Orders 0001 through 016, as a violation of Plaintiffs' fundamental rights
20 under the First, Fifth and Fourteenth Amendments;

21 b. A declaratory judgment that issuance and enforcement of Emergency
22 Directives/Orders 0001 through 016 as an unconstitutional violation of Plaintiffs' substantive
23 due process rights under the First and Fourteenth Amendment;

24 c. A declaratory judgment that issuance and enforcement of Emergency
25 Directives/Orders 0001 through 016 as an unconstitutional taking without just compensation,
26 under the Fifth and Fourteenth Amendment;
27
28

1 d. A declaratory judgment that issuance and enforcement of Emergency
2 Directives/Orders 0001 through 016 as an unconstitutional violation of Plaintiffs' substantive
3 due process rights under the First and Fourteenth Amendment;

4 e. A permanent injunction to prohibit Defendants from enforcing the Emergency
5 Directives/Orders 0001 through 016.
6

7 f. General damages in excess of \$15,000.00;

8 g. Special damages in excess of \$15,000.00;

9 h. Exemplary damages in excess of \$15,000.00;

10 i. Interest from the time of service of this Complaint as allowed by NRS17.130;

11 j. Costs of suit and attorneys' fees; and

12 k. For such other and further relief as the Court may deem appropriate.
13

14 DATED this ____ day of May, 2020,

15 **MUELLER & ASSOCIATES, INC.**

16
17 
18 **CRAIG A. MUELLER, ESQ.,**

19 Nevada Bar No. 4703

20 723 South Seventh Street

21 Las Vegas, Nevada 89101

22 *Attorney for Plaintiffs*
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MUELLER & ASSOCIATES, INC.

723 S. 7th Street, Las Vegas, Nevada 89101


Telephone: (702) 382-1200 Facsimile: (702) 637-4817

JURY DEMAND

Plaintiffs demand a jury trial on all counts contained in the Complaint.

DATED this 5 day of May, 2020.

MUELLER & ASSOCIATES, INC.


CRAIG A. MUELLER, ESQ.,
Nevada Bar No. 4703
723 South Seventh Street
Las Vegas, Nevada 89101,
Attorney for Plaintiffs

MUELLER & ASSOCIATES, INC.
723 S. 7th Street, Las Vegas, Nevada 89101
Telephone: (702) 382-1200 Facsimile: (702) 637-4817